

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

RYAN BERGSTRESSER, : CIVIL ACTION NO. 3:12-1464
Plaintiff :
v. : (JUDGE MANNION¹)
BRISTOL-MYERS SQUIBB :
COMPANY², :
Defendant :
:

ORDER

In light of the memorandum issued this same day, **IT IS HEREBY ORDERED THAT:**

(1) the defendant's motion for judgment on the pleadings, (Doc. No. 9), is **GRANTED IN PART AND DENIED IN PART** as follows:

(a) the defendant's motion is granted to the extent that the plaintiff's strict liability claims based upon failure to warn and design defect are dismissed;

(b) the defendant's motion is denied to the extent

¹The instant action was originally assigned to the Honorable A. Richard Caputo. By verbal order, on January 7, 2013, the matter was reassigned.

²The defendant has provided that it was incorrectly designated "Bristol-Meyers Squibb Company" in the complaint. The correct designation is used herein.

the plaintiff's strict liability claim based upon manufacturing defect will not be dismissed;

(c) the defendant's motion is denied to the extent that the plaintiff's negligence claim based on failure to warn will not be dismissed;

(2) the plaintiff shall file an amended complaint on or before **May 17, 2013**, which cures the deficiencies of his complaint as discussed in the memorandum issued this same day.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: April 24, 2013

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